

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**CLEANUP AND ABATEMENT ORDER NO. 6-98-65**  
**WDID NO. 6A319702004**

**REQUIRING CALIFORNIA DEPARTMENT OF TRANSPORTATION—DISTRICT 3  
TO CLEAN UP AND ABATE THE EFFECTS OF THE DISCHARGE AND  
THREATENED DISCHARGE OF POLLUTANTS TO SURFACE WATERS AND  
STREAM ENVIRONMENT ZONES, BROCKWAY SUMMIT EROSION CONTROL  
PROJECT, LAKE TAHOE HYDROLOGIC UNIT, PLACER COUNTY, CALIFORNIA**

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Placer County

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The California Regional Water Quality Control Board, Lahontan Region (RWQCB) finds:

1. The California Department of Transportation—District 3 is hereinafter referred to as the “Discharger.”
2. The Discharger owns and operates State Highway 267 and associated right-of-way, including portions to the south of Brockway Summit in Placer County.
3. On June 11, 1993, the RWQCB adopted Order No. 6-93-63, *National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Storm Water Runoff Associated with Construction Activity in the Lake Tahoe Hydrologic Unit, El Dorado, Placer and Alpine Counties* (General NPDES Stormwater Permit).
4. On August 1, 1997, the RWQCB Executive Officer issued a Notice of Applicability of the General NPDES Stormwater Permit to the Discharger and assigned Board Order No. 6-93-63-15 for construction activities associated with the Brockway Summit Erosion Control Project (Project). Prior to initiation of construction activities, RWQCB staff reviewed the Storm Water Pollution Prevention Program (SWPPP) prepared for the Project pursuant to provisions of the General Permit. On June 3, 1998, RWQCB staff issued a letter citing deficiencies in the SWPPP and required that the deficiencies be addressed prior to construction commencement.
5. On May 26, 1998, RWQCB staff met with the Discharger’s resident engineer (Mr. Burton) on the Project site to discuss erosion control requirements for the project. On June 4, 1998, RWQCB staff inspected the Project site following brief rains and made recommendations to the Discharger’s representative (Mr. Stone) concerning the need for additional erosion control measures.
6. On the afternoon of September 4, 1998, RWQCB staff inspected and photographed the Project site, noting numerous inadequacies in the erosion control facilities: a) silt fences knocked down or undermined, b) uninterrupted runoff from the cut/fill slopes and disturbed roadway shoulders, and c) soils stockpiled in areas prone to erosion. There was no Discharger representative on site during the inspection. RWQCB staff contacted Mr. Mills (Discharger representative) by

telephone to notify him of potential rainfall (National Weather Service reported 65 % chance, with locally heavy showers in N. Tahoe/Truckee area) and to inform him of the seriously inadequate controls to prevent waste discharges from the project. Staff recommended specific additional erosion control measures. On September 4 and 5, 1998, locally heavy rains occurred on the project site. RWQCB staff inspected the Project (in the presence of Mr. Stone, Project contractor) on September 7, 1998 and observed evidence of uncontrolled discharges of waste earthen materials and highly turbid storm water from the project site to Stream Environment Zones (SEZs) tributary to Lake Tahoe. Specifically, staff observed silt fences full or overflowing with sediment, silt fences installed upon sediment trapped in silt fences, extensive rill and gully erosion, puddles of highly turbid water and sediment deposits in the ephemeral SEZ channel. No improvements were made before additional hard rains occurred during the evening hours of September 7, 1998. The following day, RWQCB staff notified the resident engineer (Discharger staff) of the violations by telephone and sent recommended cleanup measures and additional erosion controls by facsimile. Staff's inspection on September 11, 1998 indicated that excessive discharges of sediment to SEZs had occurred from the hard rainfall on September 7, 1998. As of September 11, 1998, the written recommendations had not been fully implemented and the site conditions were improved only marginally, if at all.

7. The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains the following prohibitions against the discharge of waste earthen materials to surface waters and SEZs:

*The discharge, attributable to human activities, of solid or liquid waste materials, including soil, silt, clay, sand, and other organic or earthen materials, to the surface waters of the Lake Tahoe Basin is prohibited.*

*The discharge or threatened discharge attributable to new development in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited.*

8. The Discharger's General NPDES Stormwater Permit includes the following provisions:

III.C. Best Management Practices

2. *Temporary gravel, hay bale, earthen, or sand bag dikes, or non-woven filter fabric fence shall be used as necessary to prevent discharge of earthen materials from the site during periods of precipitation or runoff.*
4. *Surface flows from the project site shall be controlled so as to not cause downstream erosion at any point. All storm water runoff which leaves the site shall be discharged to a storm drain or stabilized drainage.*
10. *Erosion control facilities shall be installed in conjunction with a routine maintenance and inspection program to provide continued integrity and proper performance of erosion control facilities.*

*III.D. General Requirements and Prohibitions*

5. *At no time shall surplus or waste earthen materials be placed in surface water drainage courses, within the 100-year flood plain of any surface water, or in such a manner as to allow the discharge of such materials to adjacent undisturbed land or to any surface water drainage course.*
9. Based on the information referenced in Finding Nos. 4, 5, and 6, the discharge and threatened discharge of waste earthen materials to surface waters and SEZ has violated the above-cited prohibitions and requirements, listed in Nos. 7 and 8.
10. Section 13304 of the California Water Code (CWC) prescribes that, *(a) Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.*
11. This enforcement action is being taken by this regulatory agency to enforce the provisions of the California Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code 21000, et seq.) in accordance with Section 15321, Chapter 3, Title 14, of the California Code of Regulations.

**IT IS HEREBY ORDERED** that, pursuant to Section 13304 of the CWC, the Discharger shall take immediate actions to comply with the General NPDES Stormwater Permit (enclosed). At a minimum, the Discharger shall take the following remedial actions:

1. Remove accumulated earthen materials from permanent storm water detention basins, temporary silt fences, check dams, and areas where runoff concentrates (such as the road shoulder) to prevent discharge of storm water and sediment from the project site. Any removed sediment shall be stabilized from erosion on the project site or transported to the authorized off-site soil disposal area.
2. Install silt fence (or equivalent) parallel to the toe of all cut or fill slopes.
3. Install silt fence (or equivalent) check dams at approximately 50 foot intervals in all disturbed areas of the road shoulder. Check dams shall be installed in a broad, U-shaped manner to provide areas for water containment and to slow the velocity of runoff, and shall be designed to prevent erosion from uncontrolled overflows or flows in excess of containment capacity.
4. Replace or repair existing silt fences, hay bales (or equivalent) which are ineffective, due to overtopping, undercutting, or other damage, neglect, or improper installation. All silt fence

edges shall be overlapped and double-wrapped around the support stake prior to staking. All bales shall be properly trenched and staked; one bale is insufficient for a check dam.

5. Remove accumulated sediment and clay discharged from the project site to undisturbed land areas and ephemeral streams (SEZ) using low-impact removal/restoration methods. Avoiding vegetation removal, focus on the areas where erosion controls have failed, culvert inlets and outlets, and SEZ areas near the roadway. (Low-impact, in this case, requires methods such as hand labor with shovels and rakes, wheel barrows to haul sediment back to the Project site, cranes with buckets to lift sediment back to the Project site, and similar methods, as previously discussed with Discharger representative Mr. Stone.)
6. Repair gully erosion on the Project site by backfilling. A recommended method is to overfill with appropriate compaction and mulch using wood chips or pine needles.
7. Implement the above-cited measures immediately. The site shall be brought into compliance with the General NPDES Stormwater Permit by **October 1, 1998**.
8. Submit a technical report to the RWQCB by **October 9, 1998** describing the actions completed and erosion control measures implemented on the Project site. Include a schedule of the remaining Project activities for 1998, indicating when permanent stabilization and/or full winterization of the Project site will be accomplished.

The RWQCB Executive Officer reserves the right to require additional cleanup measures. Failure to comply with the terms and conditions of this Order will result in additional enforcement action which may include the imposition of administrative civil liability or referral to the Attorney General of the State of California for such legal action as he may deem appropriate.

Ordered by: \_\_\_\_\_ Dated: \_\_\_\_\_  
HAROLD J. SINGER  
EXECUTIVE OFFICER

Enclosure: RWQCB Order No 6-93-63